

ENDANGERED SPECIES

The Endangered Species Act of 1973 established a review process for projects, which could affect a Federally listed endangered or threatened species or species proposed for listing, or result in the destruction or adverse modification of habitat critical to threatened animal or plant life. The recipient must make a determination on the potential effect the proposed project may have on any protected animal or plant life and the related habitat.

Threshold for Review: Properties proposed for new construction, major rehabilitation, demolition, conversion of land use and the acquisition of undeveloped land.

Basic Steps to Obtain Concurrence:

1. Review the Statewide Programmatic Section 7 Consultation Agreement in the appendices. **This agreement only applies for construction activities that take place within the existing village footprint (definition of existing village included in agreement attached).**
 - a. If a village/town is listed **outside** of the range of listed species, the tribe can make a “**no effect**” determination on the project without further consultation with FWS or NMFS. (See Table B for list of towns/villages).
 - b. If village is listed **within** the range of a listed species, but is within the Scope of Projects identified under the programmatic agreement, the Tribe can make a “**no effect**” determination on the project without further consultation with FWS or NMFS. (See Table C for a list of Scope of Projects)
 - c. If the Tribe cannot make a “**no effect**” determination within either of the steps listed above **or** the construction activities are being conducted outside the village footprint, then further consultation with the FWS and NMFS will be required. Formal consultation requires that the Tribe prepare a Biological Assessment prior to initiating consultation.
2. If you, in consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, determine a potential “affect” may exist, consultation pursuant to 50 CFR Part 402 is required. You should coordinate the consultation process with your U.S. Fish and Wildlife Service representative, and the National Marine Fisheries representative. **Prepare a determination based on the results of the consultation process and include it and verification of U.S. Fish and Wildlife Service and National Marine Fisheries Service concurrence in the ERR file.**

For CATEGORICAL EXCLUSION determinations: If mitigation action is required, the Tribe must complete and post a NOI/RROF and submit an RROF to the AONAP.

Additional information regarding the U.S. Fish and Wildlife Service Endangered Species Program and the National Marine Fisheries Service Protected Resources Division can be found on the Internet at the following addresses:

FWS Endangered Species Program: <http://www.fws.gov/endangered>

<http://alaska.fws.gov/fisheries/endangered>

NMFS Protected Resources Division: <http://www.fakr.noaa.gov/protectedresources>

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